

HARPER COUNTY BOARD OF COUNTY COMMISSIONERS

CHECK LIST FOR CONSIDERATION OF A REZONING CASE

PURPOSE:

This check list is to assist: (1) the Chairman in conducting the discussion and decision on a rezoning case; (2) the County Clerk in an orderly process of minute taking; (3) the Applicant in presenting any new information; and (4) any persons who have new information or wish to know their rights in the matter. Although the order of the outline should be followed, the material will need to be modified to relate to the particular case. This check list is in keeping with the procedures in K.S.A. 12-757(c), (d) and (e) and the decision in Houston v. Board of (Wichita) City Commissioners, 218 Kan. 323 (1975). The latter determined that:

"Where the statutory requirements are fully met (Ed: Notice and public hearing) and a full and complete record of the substance of the planning commission proceedings is before the governing body, due process does not require the governing body to conduct a second public hearing on the advisability of the proposed change." (Syllabus)

CALL AGENDA ITEM:

I call Agenda item # _____ which is on Case No. Z-01-20. This is for a rezoning amendment requesting a change from the present I-1 Light Industrial District to the A-2 Agricultural District.

DISQUALIFICATION DECLARED AND QUORUM DETERMINED:

Before we proceed, I'll ask the Commission if any of them intend to disqualify themselves from participating in this case because they have conflict of interest. (Please let the minutes show that _____ has disqualified himself/herself because _____ and has temporarily disassociated himself/herself from our Commission.) We have a quorum of _____ present for the consideration of the case.

PROTEST PETITIONS:

Has the County Clerk received any protest petitions on the case? (If **no**, proceed to next item.) (If **yes**) Do they constitute the statutory required 20% necessitating a 3/4 vote of the Commission to approve the case? (If **yes**) Having determined that a valid protest petition has been submitted to the Clerk, I would remind the Commission that a unanimous vote is necessary to approve the case.

COMMUNICATIONS:

Did the Commission receive any comments from a city on this case? (If **no**, proceed to next item.) (If **yes**, discuss as deemed desirable.) Are there any other communications to consider on this matter other than from our Planning Board? (Read and discuss as deemed desirable.)

SUMMARY OF HEARING:

I ask the Commission members if they have all received copies of the unapproved Minutes of the Planning Board for July 28, 2020 which summarizes their hearing on this case. (If **no**, consider a motion to continue the agenda item until the minutes will be available.) (If **yes**) Having determined that the members have received the required information, I am going to call on the Zoning Administrator for a report and then ask the Applicant and any members of the public who wish to speak on this case to confine their presentation to new information not otherwise presented at the hearing. The Commission may also want to direct questions to the Applicant, the staff or other persons present.

ZONING ADMINISTRATOR'S REPORT:

I call on our Zoning Administrator, Matthew Booker to provide us with a report on the case and recommendation of the Planning Board. (See Rezoning Report.)

Thank you for your presentation. Are there any questions for the Zoning Administrator from the Commission members?

APPLICANT'S PRESENTATION:

Does the Applicant wish to present any new information?

Thank you for your information. Are there any questions to the Applicant from Commission members?

PUBLIC COMMENTS:

Does anyone from the public wish to respond to the Applicant's information or provide any new information? Please come to the podium and give your name and address.

Do any of the Commission members have a question for the public presenter?

APPLICANT'S RESPONSE:

Does the Applicant have any further responses to the public comments?
Are there any Commission questions?

BOARD DELIBERATION:

Assuming the Commission has received all the information they need on this case, you have received an outline of choices provided under the state statutes for Commission action: (K.S.A. 12-757[c]) How do you wish to act?

- (Recommendation to approve.)
- (1) Move to adopt the findings and factors and recommendation of the Planning Board on Case No. Z-01-20 and to **approve** Resolution No. 2020-_____ (Majority vote needed.) *
- (Recommendation to disapprove.)
- (2) Move to adopt the findings and factors and recommendation of the Planning Board to **disapprove** Case No. Z-01-20. (Majority vote needed.)
- (Recommendation to approve.)
- (3) Move to **override** the Planning Board's recommendation, **approve** Case No. Z-01-20, **amend** in detail the findings and factors supporting the motion in the Rezoning Report, **attach appropriate conditions**, if any, and approve Resolution No. 2020-_____. (2/3 Majority vote needed.)*
- (Recommendation to disapprove.)
- (4) Move to **override** the Planning Board's recommendation, **disapprove** Case No. Z-01-20 and amend in detail the findings and factors supporting the motion in the Rezoning Report. (2/3 Majority vote needed.) *
- (5) Move to **return the recommendation** to the Planning Board on Case No. Z-01-20 **for further consideration** at its next regular meeting with a statement specifying the basis for the Board's concerns whether to approve or disapprove the recommendation. **
- (6) Move to **table** Case No. Z-01-20 until _____, 20____ at :____ (a.m., p.m.) in this same meeting room for more (information) (and) (study) in regard to _____ (Majority vote needed.)

* **(Note:** If a valid protest petition is determined, a unanimous vote will be needed to approve the case.)

**** (Note:** If the Commission returns the Planning Board's recommendation, the Planning Board, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new and amended recommendation. Upon the receipt of such recommendation, the Commission, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by resolution, or it need take no further action thereon. If the Planning Board fails to deliver its recommendation to the Commission following the Planning Board's next regular meeting after receipt of the Commission's report, the Commission shall consider such course of inaction on the part of the Planning Board as a resubmission of the original recommendation and proceed accordingly. In either circumstance, the Commission may take any action they desire by majority vote unless legal protest petitions are received which would necessitate a 3/4 vote, i.e., a unanimous vote to approve the case.)

CLOSING REMARKS:

(For approval)

Persons aggrieved by the final decision of the Commission on this matter have 30 days after the effectuating resolution is published within which to appeal to District Court.

(For disapproval)

Persons aggrieved by the final decision of the Commission on this matter have 30 days after today's action within which to appeal to District Court.

Thank you for participating in this matter.

I call for Agenda item #_____.